UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/024,278	02/17/1998	FREDERICK S M HERZ	6099/008	8139

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EXAMINER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	09/024,278	HERZ ET AL.
	Examiner	Art Unit	
	SON P. HUYNH	2424	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>03</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>20 November 2009</u>.

2a) ☒ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>15 and 17-43</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>15 and 17-43</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on <u>17 February 1998</u> is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments with respect to claims 15, 17-43 have been considered but

are moot in view of the new ground(s) of rejection.

Applicant argues Hendrick'536 is not a prior art to the present application; the

USPTO, in the final office action issued on November 19, 2002, concluded that the '257

patent disclosed the invention claimed in the present application (pages 10-11, bridge

paragraph).

In response, it is noted that the claims have been amended. In addition,

Hendricks '536 claims continuation of applications filed prior to '257 (e.g., 5798,785 and

5,600,364, etc. filed in Dec. 2, 1993 – see col. 1, lines 5-39).

Rejections on the amended claims are analyzed as discussed below.

Claims 1-14, 16 have been canceled.

Claim Rejections - 35 USC § 112

2.   The following is a quotation of the second paragraph of 35 U.S.C. 112:
        The specification shall conclude with one or more claims particularly pointing out
        and distinctly claiming the subject matter which the applicant regards as his
        invention.

3.   Claims 15, 17-20, 36-43 are rejected under 35 U.S.C. 112, second paragraph, as

being indefinite for failing to particularly point out and distinctly claim the subject matter

which applicant regards as the invention.

Claims 15 and 36, lines 5-6, recites the feature "...via respective adapters which contain

a directory memory, comprising the steps of:" is not clear. This feature is interpreted as

best understood as –via respective terminal adapters, each of said respective terminal

contains a directory memory, the method comprising the steps of: --

Claims 15 (lines 14 and 17) and claim 36 (lines 14-15,17) each recites the limitation

"said terminal adapter memory". There is insufficient antecedent basis for this limitation

in the claim.

Claim 36, in line 16, recites "said terminal adapter". There is insufficient antecedent

basis for this limitation in the claim.

Claim 18, lines 3-4, recites limitation "said prioritized information segments...". There is

insufficient antecedent basis for this limitation in the claim.

Claim 19, (line 3) and claim 20 (line 4), each recites limitation "said plurality of

subscriber terminals...". There is insufficient antecedent basis for this limitation in the

claim.

Claim 37, in lines 4-5, recites "said terminal adapter". There is insufficient antecedent

basis for this limitation in the claim.

Claim 39, in line 3, recites "said plurality of terminal adapters". There is insufficient

antecedent basis for this limitation in the claim.

Claim 40, in line 4, recites "said plurality of terminal adapters". There is insufficient

antecedent basis for this limitation in the claim.

Claim 41, in lines 1-2, recites "wherein said step of providing data to said terminal

adapter". There is insufficient antecedent basis for this limitation in the claim.

Claim 41, in line 3, recites "said user". There is insufficient antecedent basis for this

limitation in the claim.

Claim 41, in lines 1-3, recites "said terminal adapter". There is insufficient antecedent

basis for this limitation in the claim.

Claim 42, in lines 1-2, recites "wherein said step of providing data to said terminal

adapter". There is insufficient antecedent basis for this limitation in the claim.

Claim 42, in line 3, recites "said terminal adapter". There is insufficient antecedent basis

for this limitation in the claim.

Claim 43, in lines 1-2, recites "wherein said step of providing data to said terminal

adapter". There is insufficient antecedent basis for this limitation in the claim.

Claim 43, in lines 3-4, recites "said terminal adapter". There is insufficient antecedent

basis for this limitation in the claim.

Claim 43, in line 3, recites "said user". There is insufficient antecedent basis for this

limitation in the claim.

Claim Rejections - 35 USC § 101

4.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of
> matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the
> conditions and requirements of this title.

5.   Claims 15, 17-25, 28-43 are rejected under 35 U.S.C. 101 as not falling within

one of the four statutory categories of invention. While the claims recite a series of steps

or acts to be performed, a statutory "process" under 35 U.S.C. 101 must (1) be tied to

particular machine, or (2) transform underlying subject matter (such as an article or

material) to a different state or thing. See page 10 of In Re Bilski 88 USPQ2d 1385. The

instant claims are neither positively tied to a particular machine that accomplishes the

claimed method steps nor transform underlying subject matter, and therefore do not

qualify as a statutory process. The claimed method comprising receiving.., is broad

enough that the claim could be completely performed mentally, verbally or without a

machine nor is any transformation apparent. For example, "the method of providing a

subscriber with program information...comprising the steps of: storing an entirely...."

could be preformed by a mail system; wherein the claimed "directory memory..." could

be storage or paper folder at the plurality of user's houses/mail box,; "storing an entirety

...in a memory" could be interpreted as storing directory information in storage or folder,

etc. at the post office or mail service provider; a claimed "subscriber" could be

interpreted as subscribers/users that receive information via mail and making selecting

of interest information and send them to mail service provider, based on information

received from the user, the mail service provider selects particular information and

concurrently distribute the to users for storing in a storage or folder at user's location.

Claim Rejections - 35 USC § 102

6.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7.   Claims 15, 17-34, 36-43 are rejected under 35 U.S.C. 102(e) as being

anticipated by Hendricks et al. (US 5,798,785 B1) – hereinafter referred to as H785.

(Note: all references incorporated by references in H785 (e.g., 5,600,364 (H364), Ser.

No. 08/160,282, filed Dec. 2, 1993, now, Pat. 5,659,350 (hereinafter referred to as

H350); Ser. No. 08/160,193, filed Dec. 2, 1993, now, Pat. No. 5,734,853 (hereinafter

referred to as H853); Ser. No. 08/160,283, filed Dec. 2, 1993, now, Pat. No. 5,682,195

(hereinafter referred to as H195); U.S ser. No. 08/160,194, filed Dec. 2, 1993, now U.S

Pat. No. 5,990,927 (hereinafter referred to as H927) – see col. 1, lines 5-26).

Regarding claim 15, H785 disclose a method of providing a subscriber with program

information regarding a plurality of concurrently broadcast programs in a data

distribution system (providing subscriber with program control information including

program title, channel, time, or advertisement information, etc. regarding a plurality of

concurrently broadcast programs in a delivery system – see include, but is not limited

to, figures 1-4, col. 6, line 3-col. 8, line 52, col. 12, lines 40-64) which comprises a

multimedia broadcast system which concurrently transmits a plurality of programs,

which are made available to a plurality of subscribers, which are connected to the

multimedia broadcast system via respective terminal adapters which contain a directory

memory (see include, but are not limited to, figures 1-7, H364: figures 1-2), comprising

the steps of:

        storing an entirety of directory information in a memory located in the multimedia

broadcast system (storing all information of program in a memory such as internal

storage in operations center or at the file server 215 or database 262 in cable head end – see include, but are not limited to, figures 1-2, H364: col. 8, lines 39-45);

generating subscriber interest profile data which is indicative of ones of the concurrently broadcast programs which are likely to be of interest to a subscriber at a subscriber terminal associated with the subscriber (user interest profile data in user request for video programs, movies, menu, program suggestion, custom menu, etc. or reference in user personal profile – see include, but are not limited to, col. 25, line 25-col. 30, line 64, col. 32, line 33-col. 34, line 61; H364: figures 11-23);

utilizing the subscriber interest profile data, excerpting a subscriber specific subset of directory information from the directory information stored in the memory (retrieving the requested menu, requested programs, advertisements based on user profile, or user request, see include, but are not limited to, figures 11a-13, col. 25, line 25-col. 30, line 64, col. 32, line 33-col. 34, line 61; H364: figures 11-23);

transmitting the excerpted directory information to the terminal adapter memory for storage therein (transmitting requested programs, suggestion menu, or custom menu, etc. to memory of set top terminal for storage therein – see include, but are not limited to, figures 4-9a; H364: figures 11-23) ; and

enabling a subscriber at the subscriber terminal device to access the excerpted directory information stored in the terminal adapter memory (subscriber at the set top terminal is able to select a program title, channel, etc. on the display menu at the set top terminal– see include, but are not limited to, figures 11a-11e, 14; H364: figures 8a-8c, figure 17) .

Regarding claim 17, H785 discloses a method as discussed in the rejection of claim 15.

H536 further discloses:

calculating, in response to the subscriber accessing ones of the plurality of

broadcast programs, similarity measures to identify other likely broadcast programs of

interest to the subscriber (determining programs/suggestion menu/custom menu, etc. to

be suggested/provided to the user according to user request, or watched programs or

user viewing habits, etc. – see include, but are not limited to, figures 11a-14col. 25, line

25-col. 30, line 64, col. 32, line 33-col. 34, line 61; H364: figures 11-23).

Regarding claim 18, H785 discloses a method as discussed in the rejection of claim 15.

H534 further discloses searching, in response to user interest profile data, the prioritized

information segments of all of the data items to identifying a selected data item which

most likely corresponds to the user interest profile data (searching and providing

information all contents with the same category, time period, channels, actors, etc. that

correspond to/match user request/user profile- see include, but are not limited to,

figures 11a-13, col. 25, line 25-col. 30, line 64, col. 32, line 33-col. 34, line 61; H364:

figures 11-23; H364: col. 38, line 30-col. 39, line 52, col. 18, lines 30-59).

Regarding claim 19, H785 further discloses scheduling activation of the step of

transmitting the excerpted directory information to sequentially serve and the plurality of

subscriber terminals according to a determined priority schedule (using information in

scheduling database and other databases to provide the program control information,

advertisements in sequence based on time frame, ranking, or requests to plurality of set

top terminals– see include, but are not limited to figures 11a-13, col. 25, line 25-col. 30,

line 64, col. 32, line 33-col. 34, line 61; H364: figures 11-23; H364: figures 11-12, col.

18, line 15-59, col. 23, line 45-col. 24, line 40, col. 26, line 62-col. 27, line 49, col. 31,

lines 9-21, col. 34, lines 40-56, col. 35, lines 55-65, col. 38, line 45-col. 39, line 52).

Regarding claim 20, H785 discloses a method as discussed in the rejection of claim 19.

H364 further discloses the step of scheduling comprises deciding what excerpted

directory information is most likely usefully broadcast to each of the plurality of

subscriber terminals (see include, but are not limited to figures 11a-13, col. 25, line 25-

col. 30, line 64, col. 32, line 33-col. 34, line 61; H364: figures 11-23; H364: col. 36, line

39-col. 37, line 12, col. 38, line 30-col. 39, line 52).

Regarding claim 21, H785 discloses a method of enhancing communication,

comprising:

        providing at least one data source of a plurality of target object data items

(providing at least one data source such as external source, operations center, local

content source, and/or cable head end source – see include, but are not limited to,

figures 1-2; H364: figures 1-2, 4-7);

        providing a plurality of data terminals, each assigned to a particular one of a

plurality of users (providing a plurality of set top terminal, each assigned to particular

subscriber associated with the set top terminal – see include, but are not limited to,

figures 1-7; H364: figures 1-7);

interconnecting the at least one of source and the plurality of data terminals over

a communication medium (see include, but are not limited to, figure 1-7; H364: figures

1-7);

automatically generating user interest profile data for each of the plurality of user

which indicates which particular ones of the plurality of target object data items are likely

to be of interest of each of the plurality of user (using software to generate user interest

profile data for each user (either in user request or user profile/preferences or learning)

which indicates data items are likely to be interest to the user – see include, but are not

limited to, figures 11a-13, col. 25, line 25-col. 30, line 64, col. 32, line 33-col. 34, line 61;

H364: figures 11-23);

searching, utilizing the user interest profile data, the plurality of target object data

items to identify for each of the plurality of users at least one of the plurality of target

object data items which most likely corresponds to the user interest profile data (see

include, but are not limited to, figures 11a-13, col. 25, line 25-col. 30, line 64, col. 32,

line 33-col. 34, line 61; H364: figures 11-23);

delivering to the plurality of data terminals particular ones of the plurality of

target object data items over a plurality of alternative virtual channels prioritized in a

manner based upon the results of the step of searching (see include, but are not limited

to, see include, figures 11a-13, col. 25, line 25-col. 30, line 64, col. 32, line 33-col. 34,

line 61, col. 35, lines 5-col. 38, line 27; H364: figures 11-23).

Regarding claim 22, H785 discloses a method as discussed in the rejection of claim 21.

H536 further discloses the plurality of target object data items comprises at least one of:

multimedia information; data items which are divided into a plurality of information

segments (e.g., category, sub-category, or title, or promotion, time slot, video segments,

etc. – see include, but are not limited to, col. 6, lines 5-30, col. 12, lines 54-63) video

content; MPEG-compressed of video (see include, but are not limited to, col. 5, line 20-

46, col. 7, lines 15-29)

Regarding claim 23, H785 discloses a method as discussed in the rejection of claim 21.

H785 further discloses the data terminals comprise a set top boxes (set top terminals),

network interface device, terminal adaptor – see include, but are not limited to, figures

1-6; H364: figures 1-7).

Regarding claim 24, H785 discloses a method as discussed in the rejection of claim 21.

H785 further discloses the communication medium comprises at least one of: a cable

television system; a digital broadcast system, a video-on demand system (see include,

but are not limited to, figures 1-6; H364: figures 1-7).

Regarding claim 25, H785 discloses a method as discussed in the rejection of claim 21.

H785 further discloses the user interest profile data is maintained in the data terminals

(user profile data including, program access information, is stored in storage device at

set top terminal – see include, but are not limited to, H364: col. 12, lines col. 18, lines

42-58, col. 26, line 27-col. 27, line 49, col. 29, line 60-col. 30, line 49; H785: col. 33, line

15-col. 34, line 28).

Regarding claim 26, H785 discloses a method as discussed in the rejection of claim 21.

H785 further discloses providing a processor in each of the data terminals (e.g.,

microprocessor in each set top terminals for controlling operations of the set top

terminal – see include, but are not limited to figure 4);

utilizing the processor to select a plurality of data items as corresponding to the

user interest profile during the step of search, and to assign data items to virtual

channels for consideration by the users (utilizing the microprocessor to select a plurality

of data items as corresponding to the user interest profile data either based on user

request or in the user profile/preference during the search and assign data items to

virtual channel for displaying in the menu for consider by the – see include, but are not

limited to, H785, figures 4, 8-9c, 11a-13b; col. 25, line 25-col. 30, line 64, col. 32, line

33-col. 34, line 61, col. 35, lines 5-col. 38, line 27; H364: figures 11-23).

Regarding claim 27, H785 discloses a method as discussed in the rejection of claim 26.

H785 further discloses rank/sort program control information and other content for

display based on matching between program control information and user interest

profile data in user profile (see include, but are not limited to, H364: col. 18, line 30-col.

21, line 12, col. 30, line 15-49, col. 34, line 40-col. 36, line 42-52, col. 37, line 1-12, col.

39, lines 31-52; H785: figures 4, 11a-11e, 13a-13b, col. 25, line 25-col. 30, line 64, col.

32, line 33-col. 34, line 61, col. 35, lines 5-col. 38, line 27). Thus, the processor is

inherently compares directory information (e.g., program control information,

advertisement information) associated with each of the plurality of target data items to

user interest profile data (in user profile) during the searching to determine whether

there is correspondence so that the program control information or advertisement is

displayed based on the correspondence/matching.

Regarding claim 28, H785 discloses a method as discussed in the rejection of claim 21.

H785 further discloses collecting target data use information, such as viewing habit

data, and transmitting it though communication medium for use in refining the user

interest profile data (collecting accessed/watched program information and transmitting

through communication medium to head end or operation center for use to

update/refine user interest profile data in user profile – see include, but are not limited

to, figures 11a-13, col. 25, line 25-col. 30, line 64, col. 32, line 33-col. 34, line 61, col.

35, lines 5-col. 38, line 27; H364: figures 11-13; col. 26, line 12-col. 27, line 47, col. 29,

line 30-col. 31, line 63, col. 33, lines 12-25, col. 34, lines 25-65, col. 36, lines 1-67).

Regarding claim 29, H785 discloses a method as discussed in the rejection of claim 21.

H785 further discloses providing at the at least one data source a directory of

descriptive information for the plurality of target object data items (operations center or

head end provides program control information include program title, channel, etc. of

the video program, advertisements, etc. – see include, but are not limited to, col. 6, lines

3-30, col. 12, lines 40-64; col. 25, line 25-col. 30, line 64, col. 32, line 33-col. 34, line 61,

col. 35, lines 5-col. 38, line 27; H364: figures 11-23);

provinding in a preselected manner for each of the plurality of users a portion of

the directory of descriptive information which best matches the user interest profile of

each of the plurality of users (providing program control information and/or

advertisements that match information in user profile for suggesting/displaying to the

user – see include, but are not limited to, figures 11a-13, col. 25, line 25-col. 30, line 64,

col. 32, line 33-col. 34, line 61, col. 35, lines 5-col. 38, line 27; H364: figures 11-23).

Regarding claim 30, H785 discloses a method as discussed in the rejection of claim 21.

H785 further discloses the target program/program information is divided into segments

such as time slot, or 30 minutes segment, etc. and targeted to set top box terminals

based on historical viewing data and other data that is available at the network

controller (see include, but are not limited to, figures 11a-13, col. 25, line 25-col. 30, line

64, col. 32, line 33-col. 34, line 61, col. 35, lines 5-col. 38, line 27; H364: figures 11-23;

H364: col. 34, lines 25-48). As a result of dividing the program or control information,

etc. into segments and transmitting those segments to the set top terminals, the target

data items are transmitted in transmission, which utilize the information segments in

order to reduce the effective bandwidth required for service.

Regarding claim 31, H785 discloses a method as discussed in the rejection of claim 30.

H785 further discloses information segments of the plurality of target data items are

prefetched in order to optimize transmission activities (e.g. download/suggest program

information to subscriber prior to user request – see include, but are not limited to,

figures 11a-13, col. 25, line 25-col. 30, line 64, col. 32, line 33-col. 34, line 61, col. 35,

lines 5-col. 38, line 27; H364: figures 11-23).

Regarding claim 32, H785 discloses a method as discussed in the rejection of claim 31.

H785 further discloses information segments of the plurality of target data items are

prefetched based upon known location data relative to the plurality of users (e.g.

download/suggest program information to subscriber prior to user request based on

user profile/user preferences/user history– see include, but are not limited to, figures

10a-13, col. 25, line 25-col. 30, line 64, col. 32, line 33-col. 34, line 61, col. 35, lines 5-

col. 38, line 27; H364: figures 11-23).

Regarding claim 33, the limitations that correspond to the limitations of claims 21 and 29

are analyzed as discussed in the rejections of claims 21 and 29.

H785 further discloses automatically generating a user-specific directory of the

plurality of target objects for each of the plurality of users, utilizing the user interest

profile data, which includes only segments of the directory of information which are

pertinent to that particular user (generating custom menu/program suggestion, or target

advertisements which comprises only program information that match user interest data

in user request/or user profile/user preferences, etc. – see include, but are not limited

to, figures 11a-13, col. 25, line 25-col. 30, line 64, col. 32, line 33-col. 34, line 61, col.

35, lines 5-col. 38, line 27; H364: figures 11-23).

Regarding claim 34, H785 discloses a method as discussed in the rejection of claim 33.

H785 further discloses:

    providing updated directories of information related to the plurality of target data

items (providing next menu or new menu and other information – see include, but are

not limited to, figures 8-14; H364: figures 12-23);

    instructing particular affected ones of the plurality of data terminals to delete

user-specific directories (instruct the particular set top terminal to delete or rewrite the

program control information, menu templates, etc. previous stored at the set top

terminal – see include, but are not limited to, H785: figure 10a, col. 25, line 25-col. 28,

line 63; H364: figures 12-23);

    upon detection of a request for directory information at a particular one of the

plurality of data terminals, transmitting a new, updated user-specific directory to the

particular one or the plurality of data terminals (see include, but are not limited to, H785:

figure 10a, col. 25, line 25-col. 28, line 63; H364: figures 12-23).

Regarding claims 36-40, the limitations correspond to the limitations in claims 15, 18,

17, 19-20, and are analyzed as discussed in the rejection of claims 15, 18, 17, 19-20.

Regarding claim 41, H785 discloses a method as discussed in the rejection of claim 39,

H785 further discloses transmitting to the terminal adapter, in response to the user

inputting data at the terminal adapter to select one of the plurality of data items, data

representative of a second of the prioritized plurality of sets of information segments of

the selected one of the plurality of data items (transmit next or another menu to the set

top terminal in response to user request/selection – see include, but are not limited to,

figures 11a-13b; H364: figures 11-23).

Regarding claim 42, H785 discloses a method as discussed in the rejection of claim 41,

H785 further discloses transmitting to the terminal adapter, in response to transmission

of the second of the priority plurality of sets of information segments of the selected one

of the plurality of data items, data representative of at least a third of the prioritized

plurality of sets of information segments of the selected one of the plurality of data items

(transmitting to next menu in menu sequence to the user or transmitting another menu

in response to user selection – see include, but are not limited to, figures 11a-13b;

H364: figures 11-23).

Regarding claim 43, H785 discloses a method as discussed in the rejection of claim 41,

H785 further discloses transmitting to the terminal adapter, in response to user inputting

data at the terminal adapter to request the entirety of the selected one of the plurality of

data items, data representative of all of the prioritized plurality of sets of information

segments of the selected one of the plurality of data items (transmitting to the set top

terminal, in response to user request a menu (e.g., organized in particular category, or

time, etc.) , all data associated with the selected menu is transmitted and displayed to

the user - see include, but are not limited to, figures 11a-13b; H364: figures 11-23).

Claim Rejections - 35 USC § 103

8.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth
> in section 102 of this title, if the differences between the subject matter sought to be patented and the prior
> art are such that the subject matter as a whole would have been obvious at the time the invention was made
> to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be
> negatived by the manner in which the invention was made.

9.   Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over H785 as

applied to claim 34 above.

Regarding claim 35, H785 further discloses time of day and date information to the

plurality of data terminals to allow accurate scheduling and transmission (time and date

in the program control information including program menu - see include, but are not

limited to, figures 12-14, col. 12, lines 54-63; col. 19, line 28-col. 21, line 45; H364: col.

19, line 27-col. 21, line 20). H536 does not explicitly disclose the time and date

information is sent periodically. Official Notice is taken that sending information

periodically is well known in the art. For example, periodically sending program

information to update to the program information stored at the receiver. Therefore, it

would have been obvious to one of ordinary skill in the art at the time the invention was made to modify H536 with the well-known teaching in the art in order at least to improve convenience in creating transmission schedule.

Conclusion

10.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

 Abecassis (US 5,953485) discloses method and system for maintaining audio during video control.

11.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

        A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to SON P. HUYNH whose telephone number is (571)272-

7295. The examiner can normally be reached on 9:00 - 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Christopher S. Kelley can be reached on 571-272-7331. The fax phone

number for the organization where this application or proceeding is assigned is 571-

273-8300.

Information regarding the status of an application may be obtained from the

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USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Son P Huynh/   February 7, 2010
Primary Examiner, Art Unit 2424